

1 WO

KM

6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

9 United States of America,) No. CV 11-2171-PHX-GMS (ECV)
10 Plaintiff,) No. CR 10-1431-PHX-GMS
11 v.) **ORDER**
12 Luis Arturo Alonzo,)
13 Defendant/Movant.)
14 _____)

15 On November 4, 2011, Movant Luis Arturo Alonzo, who is confined in the Federal
16 Correctional Institution-Victorville I in Adelanto, Arizona, filed a *pro se* Motion to Vacate,
17 Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255.
18 The Court will call for an answer to the § 2255 Motion.

19 **I. Procedural History**

20 Pursuant to a plea agreement, Movant pled guilty to Re-Entry of Removed Alien, in
21 violation of 8 U.S.C. § 1326(a). On March 28, 2011, the Court sentenced Movant to a 46-
22 month term of imprisonment followed by 3 years on supervised release.

23 **II. Section 2255 Motion**

24 In his § 2255 Motion, Movant alleges that he was induced to plead guilty, that he is
25 a United States citizen through adoption, and that his attorney failed to get official documents
26 demonstrating Movant's citizenship.

27 The Court will require a response to the § 2255 Motion.

28 . . .

1 **III. Warnings**

2 **A. Address Changes**

3 Movant must file and serve a notice of a change of address in accordance with Rule
4 83.3(d) of the Local Rules of Civil Procedure. Movant must not include a motion for other
5 relief with a notice of change of address. Failure to comply may result in dismissal of this
6 action.

7 **B. Copies**

8 Movant must serve Respondent, or counsel if an appearance has been entered, a copy
9 of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a certificate
10 stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also, Movant must submit
11 an additional copy of every filing for use by the Court. LRCiv 5.4. Failure to comply may
12 result in the filing being stricken without further notice to Movant.

13 **C. Possible Dismissal**

14 If Movant fails to timely comply with every provision of this Order, including these
15 warnings, the Court may dismiss this action without further notice. See Ferdik v. Bonzelet,
16 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
17 comply with any order of the Court).

18 **IT IS ORDERED:**

19 (1) The Clerk of Court must serve a copy of the § 2255 Motion (Doc. 1 in CV-11-
20 2171-PHX-GMS (ECV)) and this Order on the United States Attorney for the District of
21 Arizona.

22 (2) The parties and the Clerk of Court **must file** all documents related to the § 2255
23 Motion in the **civil case**.

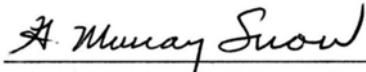
24 (3) The United States Attorney for the District of Arizona has **60 days** from the
25 date of service within which to answer the § 2255 Motion. The United States Attorney may
26 file an answer limited to relevant affirmative defenses, including but not limited to, statute
27 of limitations, procedural bar, or non-retroactivity. If the answer is limited to affirmative
28 defenses, only those portions of the record relevant to those defenses need be attached to the

1 answer. Failure to set forth an affirmative defense in an answer may be treated as a waiver
2 of the defense. Day v. McDonough, 547 U.S. 198, 209-11 (2006). If not limited to
3 affirmative defenses, the answer must fully comply with all of the requirements of Rule 5 of
4 the Rules Governing Section 2255 Cases.

5 (4) Movant may file a reply within **30 days** from the date of service of the answer
6 to the § 2255 Motion.

7 (5) The matter is referred to Magistrate Judge Edward C. Voss pursuant to Rules
8 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and
9 recommendation.

10 DATED this 7th day of December, 2011.

11 
12 _____
13 G. Murray Snow
United States District Judge

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28